



THE ATTORNEY GENERAL OF TEXAS

AUSTIN 11, TEXAS

PRICE DANIEL
ATTORNEY GENERAL

August 14, 1947

Hon. J. M. Falkner,
Deputy Commissioner,
Department of Banking,
Austin, Texas

Opinion No. V-340 .

Re: Amount of salaries
for the Banking Com-
missioner, Deputy
Banking Commissioner
and Departmental Ex-
aminer under the gen-
eral appropriation
bill for the biennium
beginning September
1, 1947.

Dear Sir:

In reply to your request for an opinion up-
on the above titled subject matter we beg to advise.

Article 342-201 of the Texas Banking Code (Vernon's Codification) provides that: "The compensa-
tion of the Commissioner (of Banking) shall be fixed by
the Departmental Appropriation Bill, but shall not ex-
ceed Seven Thousand Five Hundred Dollars (\$7,500.00)
per annum." The succeeding article fixes the compen-
sation of the Deputy Commissioner as that fixed by the
Departmental Appropriation Bill "but shall not exceed
Six Thousand Dollars (\$6,000.00) per annum," while the
next succeeding article makes similar provisions for
the Departmental Examiner except that the salary "shall
not exceed Five Thousand Five Hundred Dollars (\$5,500.-
00) per annum."

The rider to the appropriation for the Bank-
ing Department to which you refer contains the follow-
ing:

"There is hereby appropriated out
of the fees and revenues collected by
the Banking Department, for each of the
fiscal years ending August 31, 1948 and
August 31, 1949, the sum of Ten Thousand
(\$10,000.00) Dollars or so much thereof
as may be necessary, over and above the

figures itemized in this Act to be used for the purpose or purposes specified by the Finance Commission of Texas and subject to the provisions of Article 342-112, Acts 1943, 48th Legislature, page 128, chapter 97, sub-chapter 1, Article 12, provided that no part of the appropriation hereby made shall be used for the purpose of increasing the salary of any person occupying the position described in this Act except upon the written approval of a majority of the members of the Finance Commission of Texas, and the Minutes of the Commission shall set forth in detail the reasons for granting any such increase and a certified copy thereof shall be filed with the Comptroller . . ."

It will be seen that the Banking Code, which is a general law of the State, definitely fixes a maximum salary for the three officers named. The current appropriation for the three officers named is as follows: "2. Banking Commissioner (SN) \$6,108.00, 3. Deputy Commissioner (SN), \$5,508.00 and 4. Departmental Examiner (SN) \$5,340.00." Vol. 6, p. 819, Vernon's Texas Session Laws. These appropriations may be supplemented by the Finance Commission out of the \$10,000.00 appropriation, up to the statutory limit, that is, \$7,500.00 for the Commissioner of Banking, \$6,000.00 for the Deputy Commissioner, and \$5,500.00 for the Departmental Examiner. The Finance Commission cannot increase the salaries beyond the amounts fixed in Articles 342-201, 342-202, and 342-203, V.C.S., for the reason that a general law cannot be amended or repealed by an appropriation bill. *Linden v. Finley*, 92 Tex. 454.

SUMMARY

The salaries of the State Banking Commissioner, the Deputy Banking Commissioner, and the Departmental Examiner may be increased up to but not above \$7,500.00

\$6,000.00 and \$5,500.00 respectively by the Finance Commission of Texas, upon the written approval of a majority of the members of said Commission, for the years ending August 31, 1948 and August 31, 1949. Vol. 6, Vernon's Texas Session Laws, p. 819; Arts. 342-201, 342-202, and 342-203, V. C. S.

Yours very truly,

ATTORNEY GENERAL OF TEXAS

By

Ocie Speer
Ocie Speer
Assistant

OS:erc:wb

APPROVED:

Price Daniel
PRICE DANIEL
ATTORNEY GENERAL